No. 06-488

IN THE

Supreme Court of the United States

RONNIE MICKENS and GLORIA J. MICKENS,

Petitioners,

v.

STEWART TITLE GUARANTY COMPANY,
STEWART TITLE OF POLK COUNTY, FLA.,
ALLEN DAMRON CONSTRUCTION COMPANY,
ALLEN DAMRON, DEBRA DAMRON,
ELAINE P. CANADY, EDITH F. REWIS,
POLK COUNTY STATE ATTORNEY,
POLK COUNTY SHERIFF,
POLK COUNTY PROPERTY APPRAISER,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

BRIEF IN OPPOSITION FOR RESPONDENT POLK COUNTY SHERIFF

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QUESTIONS PRESENTED

1. Whether the decision of the Eleventh Circuit Court of Appeals conflicts with the decision of another United States Court of Appeals on the same important matter.

2. Whether the decision of the Eleventh Circuit Court of Appeals represents a departure from the accepted and usual course of judicial proceedings, or whether that decision sanctioned such a departure by the United States District Court for the Middle District of Florida, so as to require an exercise of the Supreme Court's supervisory power.

3. Whether the Eleventh Circuit Court of Appeals properly affirmed the District Court's dismissal of Petitioner's claims against Respondent Polk County Sheriff.

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STATEMENT OF JURISDICTION

Petitioners' original Complaint alleged multiple statutory, constitutional, and state-law claims against the Tenth Judicial Circuit Court in and for Polk County, Florida, the Second District Court of Appeals, Stewart Title Company, and Damron Construction. Petitioners eventually filed a Second Amended Complaint that reasserted their original claims and, for the first time, added as "third-party defendants" Respondent Polk County Sheriff, as well as the Polk County Property Appraiser and the Polk County State Attorney, asserting claims against these "third-party defendants" under 42 U.S.C. §§ 1983, 1985 and 2000e, *et seq.*, and 18 U.S.C. §§ 241 and 242 for conspiracy to violate civil rights, and alleging violations of their substantive and procedural due process and equal protection rights, as well as discrimination based upon their race. The District Court dismissed Petitioners' action in its entirety. Petitioners then appealed to the United States Court of Appeals for the Eleventh Circuit, which affirmed the decision of the District Court.

This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1). The Court of Appeals issued its decision on May 22, 2006 [Pet'rs' App. 27a] and denied Petitioners' motion for rehearing on July 11, 2006 [Pet'rs' App. 25a]. The Petition was filed on October 3, 2006 and docketed on October 6, 2006.

STATEMENT OF THE CASE[1]

Petitioners, Ronnie and Gloria Mickens, proceeding pro se, filed their original Complaint on or about June 15, 2005. (Doc. No. 1). The District Court, by Order dated June 17, 2005, struck Petitioners' Complaint for failure to conform to the pleading requirements of the Federal Rules of Civil Procedure. Petitioners filed an Amended Complaint on or about June 28, 2005. (Doc. No. 6). By Order dated July 13, 2005, the District Court struck the Amended Complaint, citing Petitioners' continued failure to comply with the pleading requirements of the Federal Rules of Civil Procedure. (Doc. No. 14).

Petitioners filed their prolix, twenty-six (26) count Second Amended Complaint on August 11, 2005. (Doc. No. 28). The Second Amended Complaint added Respondent Polk County Sheriff ("Sheriff") as well as the Polk County Property Appraiser and the Polk County State Attorney, as "third party defendants" (collectively, "Polk County Defendants"). The Polk County Defendants were named as "third-party defendants" only in Counts I, III, IV, V, and VIII. (Doc. No. 28). Count I asserted a claim for conspiracy to violate civil rights under 42 U.S.C. § 1985(3). In Count III, Petitioners asserted a claim under 42 U.S.C. § 1983 and 18 U.S.C. §§ 241 and 242 for violations of their substantive

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1. The Polk County Respondents submit this statement of the case because the statement provided by Petitioners is so filled with argument and hyperbole that it fails to present a simple statement of facts pertinent to this appeal. Furthermore, this Brief in Response will refer to the district court docket numbers to identify documents in the record below as Petitioners did not include all relevant documents in their appendix, nor did they contact Respondents in an attempt to create joint appendix.

due process rights. Count IV is a claim under 42 U.S.C. § 1983 and 18 U.S.C. §§ 241 and 242 for violation of Petitioners' procedural due process rights. In Count V, Petitioners allege violations of their equal protection rights under 42 U.S.C. § 1983 and 18 U.S.C. §§ 241 and 242. Finally, in Count VIII Petitioners assert a claim under the Civil Rights Act of 1964 and 1991, claiming they suffered racial discrimination.

Petitioners alleged the Sheriff, along with the other "Third-Party Defendants," acted "under color of law . . . to cover and conceal all defendants' acts of fraud, civil theft forgery, conspiracy, false pretenses . . ." and conspired "to cover and conceal Defendants' crimes and torts to deprive [Petitioners] of their property and their civil rights based on race." (Doc. No. 28 at ¶¶ 50-54). The individual counts alleged against the "Third-Party Defendants" contain similar conclusory allegations. For example, in Count I Petitioners alleged the "Third-Party Defendants" conspired with the primary Defendants "to stigmatize [Petitioners] and to violate [Petitioners'] rights to free speech, redress, due process, equal protection of the law and the right to own real property" and "attempt[ed] to extricate Defendants from their fraud and from their liability . . . to [Petitioners'] detriment." (Doc. No. 28 at ¶ 58). Petitioners further alleged in Count III that the "Third-Party Defendants" failed "to protect, consider, follow, enforce or apply the laws . . . to prevent Defendants [sic] crimes and torts to [Petitioners'] detriment." (Doc. No. 28 at ¶ 70). Likewise, in Count IV Petitioners alleged that the "Third-Party Defendants intentionally failed to protect [Petitioners'] civil right [sic] and failed to consider, investigate, charge and prosecute Defendants for fraud, forgery, theft, conspiracy, false pretenses. . . ." (Doc. No. 28 at ¶ 74). Petitioners' vague allegations continued into Count

V where they asserted the "Third-Party Defendants have violated [their] right to equal protection by violating their rights to due process, redress, free speech, life, liberty and property." (Doc. No. 28 at ¶ 79). Finally, in Count VIII Petitioners asserted that "[a]ll Third-Party Defendants conspired with Stewart Title and the Damrons to systematically deprive [Petitioners] of Due Process, Equal Protection of the Laws, and Redress for conspiracy, forgery, false pretenses . . . based on race." (Doc. No. 28 at ¶88).

The Sheriff moved to dismiss the Second Amended Complaint, asserting it failed to state a cause of action for civil conspiracy, extrinsic fraud on the court, and violation of substantive and procedural due process and equal protection rights as the complaint was predicated upon contracts to which the Sheriff was neither a party nor in privity of contract with any parties to those contracts. (Doc. No. 34). The Sheriff additionally moved to dismiss the civil conspiracy claims based on Petitioners' failure to allege the existence of a conspiracy in clear, positive, and specific terms, and the failure to support their conspiracy claims with any description of overt acts. (Doc. No. 34). Petitioners filed no response.

The District Court, by order dated August 29, 2005, dismissed the Second Amended Complaint with prejudice with respect to the Sheriff, the Polk County Property Appraiser, and the Polk County State Attorney, on the basis that the suit against these parties, as "Third-Party Defendants," was "procedurally impossible under Rule 14(a), Federal Rules of Civil Procedure." (Doc. No. 36). The court concluded the Second Amended Complaint against the Sheriff, State Attorney, and Property Appraiser, as "Third-Party Defendants," amounted to "a legal nullity which does

not permit the Court to adjudicate the rights of Plaintiffs and these Defendants nor to enter judgment for Plaintiffs." (Doc. No. 36 at 2). In so ruling, the court noted Petitioners' status as pro se litigants, recognizing the court's obligation to review their complaint "more liberally than one prepared by an attorney." (Doc. No. 36 at 2). The District Court nevertheless concluded that Petitioners, even as pro se litigants, were bound by the same rules of procedure as all other litigants, including those represented by counsel. (Doc. No. 36 at 2).

Petitioners then filed a Motion for Reconsideration. (Doc. No. 49). The motion, however, did not address the dismissed claims against the Polk County Defendants, but instead focused on the jurisdictional argument at issue with Petitioners' claims against the non-governmental defendants. By Order dated September 26, 2005, the District Court denied the Motion for Reconsideration (Doc. No. 50), and on or about October 3, 2005, Petitioners' filed their Notice of Appeal of the various orders dismissing their claims, including the Order dismissing their claims against the Polk County Defendants. (Doc. No. 51).

SUMMARY OF ARGUMENT

Petitioners have failed to show that the decision of the Eleventh Circuit Court of Appeals conflicts with any decision of another court of appeals on the same matter, or that the decision of the Eleventh Circuit Court of Appeals or the District Court for the Middle District of Florida departed from the usual and accepted course of judicial proceedings. Accordingly, Petitioners have failed to set forth a basis for review by this Court. Moreover, the Eleventh Circuit Court of Appeals properly affirmed the District Court's dismissal of Petitioner's claims against the Sheriff.

REASONS FOR DENYING THE PETITION

I. There Exists No Compelling Reason For Granting The Petition For Writ Of Certiorari.

As Supreme Court Rule 10 states, a petition for writ of certiorari "will be granted only for compelling reasons," including, among other things, that a "United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter," or "has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power." In fact, these are the very grounds cited by Petitioners as a basis for certiorari review. However, while Petitioners cite the grounds for review found in Rule 10, they fail to show that the decision of the Eleventh Circuit Court of Appeals conflicts with any decision of another court of appeals on the same matter. In fact, no where in their Petition do they identify a single court of appeals decision that conflicts with the decision of the Eleventh Circuit Court of Appeals in this particular case. Furthermore, Petitioners fail to set forth how the decision of the Eleventh Circuit Court of Appeals or the District Court for the Middle District of Florida departed from the usual and accepted course of judicial proceedings.

Rule 10 specifically states that review by certiorari is "not a matter of right, but of judicial discretion." The Rule further provides that such review is "rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law." In the instant matter, Petitioners have failed to identify any facts justifying review. At best, Petitioners have alleged the

misapplication of law to fact or procedural error, which does not meet the requirements for certiorari review. Because Petitioners have failed to demonstrate a compelling basis for granting their petition, review by this Court is not warranted. Accordingly, the Petition for Writ of Certiorari should be denied.

II. The Eleventh Circuit Properly Affirmed The District Court's Dismissal Of Petitioner's Claims Against The Sheriff.

A. Petitioners' claims, as stated against the "Third Party Defendants," failed to state a claim for which relief could be granted.

In addition to failing to set forth a sufficient basis for certiorari review, Petitioners fail to make any argument showing the Eleventh Circuit Court of Appeals improperly affirmed the district court's dismissal of their claims against the Sheriff. Because Petitioners failed to state a claim against the Sheriff for which relief could be granted, the Eleventh Circuit properly affirmed the dismissal of these claims with prejudice.

Petitioners, as pro se litigants, are entitled to a liberal review of their complaint. However, they are nevertheless bound to follow the Federal Rules of Civil Procedure as any other litigant is required to do. *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989); *McGill v. Faulkner*, 18 F.3d 456, 458 (7th Cir. 1994); *Harvey v. United States*, 2005 U.S. Dist. LEXIS 31109, *44-45 (D. Col. Nov. 28, 2005). As the Eleventh Circuit explained, because Petitioners erroneously named the Sheriff and the other Polk County Defendants as 'third-party defendants,' Petitioners sought relief from a party

against whom no relief could be granted under the Federal Rules of Civil Procedure. [Pet'rs' App. 58a]. Under Rule 14, a third-party defendant may be brought in by a defending party, as a third-party plaintiff. Fed.R.Civ.P. 14(a). A third-party defendant is "not a party to the action [but] who is or may be *liable to the third-party plaintiff* for all or part of the *plaintiff's claim against the third-party plaintiff.*" Fed.R.Civ.P. 14(a)(emphasis added). As such, the third-party complaint adjudicates rights as between the defendant and a person or entity who is otherwise not a party to the plaintiff's action. In the instant case, the Petitioners, *on their third attempt*, erroneously sued the Polk County Defendants as third-party defendants. Because such a claim is not legally possible, the claims were properly dismissed with prejudice.

B. Dismissal with prejudice was proper because amendment would be futile.

Because the record contained ample support for the dismissal of Petitioners' claims, the Eleventh Circuit properly affirmed the dismissal of their claims with prejudice. Denial of leave to amend is "justified by futility when the complaint as amended is still subject to dismissal." *Hall v. United Ins. Co. of Am.*, 367 F.3d 1255, 1263 (11th Cir. 2004)(citing *Foman v. Davis*, 371 U.S. 178, 182 (1962)); *see also Gohier v. Enright*, 186 F.3d 1216, 1218-19 (10th Cir. 1999); *Kay v. New Hampshire Democratic Party*, 821 F.2d 31, 34 (1st Cir. 1987). Furthermore, as the Eleventh Circuit noted, the District Court, in granting Petitioners leave to file a second amended complaint, warned Petitioners that such leave would be "the last opportunity [Petitioners would] be afforded to amend . . . ." [Pet'rs' App. 60a]. Courts need not grant leave to amend where there has been, among other things, "repeated failure to cure deficiencies by amendments previously

allowed." *Bryant v. Dupree*, 252 F.3d 1161, 1163 (11th Cir. 2001)(citing *Foman*, 371 U.S. at 182); *see also Benzon v. Morgan Stanley Distribs.*, 420 F.3d 598, 613 (6th Cir. 2005). Even after several amendments, Petitioners still failed to present viable causes of action against the Sheriff and the other Polk County Defendants, and accordingly, the dismissal with prejudice was properly affirmed.

First, Petitioners' conspiracy claim in Count I fails as a matter of law. Plaintiffs must allege four requirements to state a cognizable § 1985(3) conspiracy claim:

> (1) a conspiracy, (2) for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, (3) and an act in furtherance of the conspiracy, (4) whereby a person is either injured in his person or property or denied of any right of privilege of a person of the United States.

Trawinski v. United Techs., 313 F.3d 1295, 1299 (11th Cir. 2002); *see also Johnson v. City of Shorewood*, 360 F.3d 810, 817-18 (8th Cir. 2004); *Brown v. City of Oneonta*, 221 F.3d 329, 341 (2d Cir. 1999). The core of a conspiracy claim is an agreement between the parties; where the plaintiff fails to allege this element, the pleading is deficient and subject to dismissal. *Bailey v. Board of County Comm's of Alachua County*, 956 F.2d 1112, 1122 (11th Cir. 1992); *see also Jensen v. Henderson*, 315 F.3d 854, 862 (8th Cir. 2002); *Simmons v. Poe*, 47 F.3d 1370, 1376-77 (4th Cir. 1995). Furthermore, where a plaintiff merely alleges "conclusory, vague, and general allegations of conspiracy," dismissal of the

conspiracy claim is proper. *Kearson v. Southern Bell Tel. & Tel. Co.*, 763 F.2d 405, 407 (11th Cir. 1985); *Harvey v. Harvey*, 949 F.2d 1127, 1133 (11th Cir. 1992); *Simmons*, 47 F.3d at 1377; *Hale v. Harney*, 786 F.2d 688, 690 (5th Cir. 1986). "It is not enough to simply aver in the complaint that a conspiracy existed." *Fullman v. Graddick*, 739 F.2d 553, 557 (11th Cir. 1984).

The allegations in the Second Amended Complaint fall far short of meeting the prima facie pleading requirements for a civil conspiracy claim under § 1985(3) as Petitioners do no more than state that a conspiracy to "cover and conceal" other Defendants' "crimes and torts" exists. (Doc. No. 28 at ¶¶ 52, 54, 55). Petitioners failed to plead any meeting of the minds or agreement between any of the Defendants or Third-Party Defendants, and failed to otherwise allege any acts in furtherance of the conspiracy to support such a claim. As such, the dismissal of their claims under § 1985(3) with prejudice was properly affirmed.

Second, Petitioners' extrinsic fraud claims were properly dismissed. Under Florida law, the plaintiff must plead each essential element of fraud with particularity, including that the defendant made a false statement regarding a material fact; that the defendant knew the statement was false when the statement was made; that the defendant intended that the plaintiff rely and act upon the false statement; and that the plaintiff justifiably relied upon the false statement to his detriment." *Simon v. Celebration Co.*, 883 So.2d 826, 832 (Fla. 5th DCA 2004); *Held v. Trafford Realty Co.*, 414 So.2d 631, 632 (Fla. 5th DCA 1992). Federal pleading standards likewise require plaintiffs to allege fraud with particularity. *See* Fed.R.Civ.P. 9(b); *Corsello v. Lincare, Inc.*, 428 F.3d 1008, 1012 (11th Cir. 2005).

Petitioners, however, alleged nothing more than that the Third-Party Defendants engaged in a fraud on the court. Such conclusory, factually unsupported, and vague allegations violate the requirements of Federal Rule of Civil Procedure 9(b), fail to provide any notice of the nature of the claims alleged against any of the Defendants, and fail to allege the requisite elements of fraud under Florida law. Moreover, the very definition of "extrinsic" fraud precludes any action against the Sheriff or other Polk County Defendants. As this Court has explained, extrinsic fraud occurs "[w]here the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception *practiced on him by his opponent*, as by keeping him away from court, a false promise of a compromise, or where the defendant never had knowledge of the suit" due to the acts of the plaintiff. *United States v. Throckmorton*, 98 U.S. 61, 65-66 (1878)(emphasis added); *see also Fiero v. Johnson*, 197 F.3d 147, 155 (5th Cir. 1999); *Long v. Shorebank Dev. Corp.*, 182 F.3d 548, 561 (7th Cir. 1999). Florida courts have similarly defined extrinsic fraud

> as the prevention of an unsuccessful party [from] presenting his case, by fraud or deception practiced by his own adversary; keeping the opponent away from court; falsely promising a compromise; ignorance of the adversary about the existence of the suit or the acts of the plaintiff; fraudulent representation of a party without his consent and connivance in his defeat. . . .

Huffman v. Delecruz, 719 So.2d 385, 386 (Fla. 4th DCA 1998)(citing *Fair v. Tampa Electric Co.*, 27 So.2d 514, 515 (Fla. 1946)).

Petitioners, however, failed to allege any facts that would show the Sheriff or other Polk County Defendants prevented Petitioners, in any way, from participating in any state court action. The Eleventh Circuit properly affirmed the dismissal with prejudice as Petitioners failed to allege the Polk County Defendants perpetrated an extrinsic fraud and failed to plead such alleged fraud with particularity.

Third, Petitioners failed to state a claim alleging a violation of their substantive and procedural due process rights. In the counts alleging violations of their due process rights, Petitioners alleged the Third-Party Defendants acted under color of law to "cover and conceal" the actions of the primary Defendants and that the Third-Party Defendants "conspired with" each other and the primary Defendants to "fraudulently convey Plaintiffs [sic] real property . . . without Plaintiffs' knowledge or consent," to "cover and conceal Defendants [sic] crimes and torts to deprive Plaintiffs of their property and their civil rights base [sic] on race," and to "deprive Plaintiffs of due process, equal protection of the laws and rights to redress." (Doc. No. 28 at ¶¶ 50-54).

Petitioners' procedural due process claim failed to state a claim for which relief could be granted. The Fourteenth Amendment's Due Process Clause provides that no state shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const. Amend XIV, § 1. In order to establish a violation of procedural due process rights under 42 U.S.C. § 1983, the plaintiff must establish the deprivation of a constitutionally protected liberty or property interest, state action, and a constitutionally inadequate process. *Arrington v. Helms*, 438 F.3d 1336, 1347 (11th Cir. 2006); *Lekas v. Briley*, 405 F.3d 602, 607 (7th Cir. 2005). Even if Petitioners had alleged state action and the deprivation of a

protected interest, they failed to allege that there existed a process, inadequate by constitutional standards, to remedy the alleged violations. *See, e.g., Horton v. Board of County Comm'rs of Flagler County*, 202 F.3d 1297, 1300 (11th Cir. 2000). Accordingly, that claim was properly dismissed.

Petitioners' substantive due process claims likewise failed to state a claim for which relief could be granted. While Petitioners vaguely assert the Third-Party Defendants conspired with the primary Defendants to deprive them of their property, due process and equal protection rights, and the right to redress, they fail to establish any violation – by the Third Party Defendants or any other party – of a fundamental right. In order to state a claim for violation of substantive due process rights, the plaintiff must allege a violation of a fundamental right. *See Behrens v. Regier*, 422 F.3d 1255, 1264 (11th Cir. 2005); *Hill v. Borough of Kutztown*, 455 F.3d 225, 235 (3d Cir. 2006); *Medeiros v. Vincent*, 431 F.3d 25, 32 (1st Cir. 2005); *see also McKinney v. Pate*, 20 F.3d 1550, 1556 (11th Cir. 1994)("The substantive component of the Due Process Clause protects those rights that are 'fundamental,' that is, rights that are 'implicit in the concept of ordered liberty'"); *Greenbriar Village, LLC v. City of Mountain Brook*, 345 F.3d 1258, 1262 (11th Cir. 2003) (explaining that fundamental rights are those created by the Constitution). In light of Petitioners' conclusory allegations, and the absence of any allegation of a violation of fundamental rights, Petitioners' substantive due process claims were properly dismissal.

Fourth, Petitioners failed to state a claim for violation of their equal protection rights. The Equal Protection Clause mandates that the government treat similarly situated individuals alike. U.S. Const., Amend. XIV, § 1. To properly

plead a violation of equal protection rights, the plaintiff must allege that through state action motivated by an unlawful factor, the plaintiff was treated differently than others similarly situated. *Draper v. Reynolds*, 369 F.3d 1270, 1278 n.14 (11th Cir. 2004), *cert. denied*, 543 U.S. 988 (2004); *Thigpen v. Bibb County*, 223 F.3d 1231, 1237 (11th Cir. 2000); *Mercer v. Hammonds*, 134 F.3d 1066, 1070 (11th Cir. 1998).

Petitioners' equal protection claim does nothing other than state their conclusion that the "Third-Party Defendants . . . violated [their] right to equal protection by violating their rights to due process, redress, free speech, life, liberty, and property." (Doc. No. 28 at ¶ 79). Petitioners failed to allege that any Third-Party Defendant harbored an intent to discriminate against them, other than a few factually unsupported, conclusory statements that their rights were violated based on their race. Petitioners, however, also failed to allege that they were treated differently than others similarly situated. The Second Amended Complaint fails to identify one similarly situated individual who was treated differently than the Mickens. As this Court noted in *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 439 (1985), the Equal Protection Clause "is essentially a direction that all persons similarly situated should be treated alike." Because Petitioners' Second Amended Complaint failed to identify any similarly situated individuals or otherwise assert that they were treated differently than such individuals, the Eleventh Circuit properly affirmed the dismissal of their equal protection claim.

Finally, the Eleventh Circuit properly affirmed the dismissal of Petitioners' claim for relief against the Polk County Defendants under the Civil Rights Act of 1964 and 1991 for discrimination based on race. That claim fails to

state a claim for which relief can be granted because it fails to identify any particular section of the Act or any particular action of any Defendant that violated the Act. Rather, this claim merely restates Petitioners' conspiracy claims under § 1985(3). More importantly, they failed to allege particular facts to support this claim.

Like the rest of Petitioners' Second Amended Complaint, this claim merely assumes a violation of an unspecified right without setting forth one fact to support their claim, whatever that may be. Because this claim – like all others asserted in the Second Amended Complaint – fails to set forth any facts to support Petitioners' assertion that their unspecified rights were violated, dismissal of this claim was warranted and the Eleventh Circuit properly affirmed same.

CONCLUSION

The Eleventh Circuit Court of Appeals properly affirmed the District Court's dismissal of Petitioners' Second Amended Complaint with prejudice because, as alleged against the Sheriff and other Polk County Defendants, Petitioners failed to state a claim upon which relief could be granted. More importantly, Petitioners have failed to identify a single decision of a United States court of appeals that conflicts with the Eleventh Circuit's decision in this case. Finally, because Petitioners, despite the filing of multiple complaints, failed to advance a viable claim for any particular violation of state or federal law, it cannot be said that the Eleventh Circuit's decision affirming the dismissal with prejudice departed from the usual and accepted course of judicial proceedings. Accordingly, because Petitioners have demonstrated no ground for review by certiorari, this Court should deny their petition.

Respectfully submitted,

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